

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Year 2000 Biennial Regulatory Review –)	FCC Docket No. 01-153
Amendment of Part 22 of the Commission’s)	WT Docket No. 01-108
Rules Affecting the Cellular Radiotelephone)	
Service and other Commercial Mobile Radio)	
Services		

To: The Commission

COMMENTS OF SECURE ALERT, INC.

SecureAlert, Inc. ("SecureAlert") hereby files comments in the above captioned proceeding concerning the Commission’s May 3, 2001 Notice of Proposed Rulemaking seeking comment on whether to modify or eliminate certain Part 22 rules, in particular the rules governing the provision of analog cellular service.

In brief, SecureAlert believes that eliminating the analog service requirement and the analog compatibility standard would have a significant adverse impact on segments of the population who are under-served by non-analog wireless telecommunications services, and on people who depend upon analog service. SecureAlert believes that maintaining the analog service requirement and the analog compatibility standard is vital to the public interest because it ensures that access to public safety is available to all individuals, including the elderly, those with hearing disabilities, and people who live or roam in rural areas.

I. Statement of Interest.

SecureAlert develops, distributes and markets wireless consumer safety products under the Magnavox brand. One of SecureAlert’s safety products, Mobile911, is an

emergency wireless phone designed to provide two-way voice access to Basic 911 Service. Mobile911 was designed to serve segments of the population that have been overlooked by the wireless communications industry. Most Mobile911 users are elderly people with medical concerns. Many want wireless telephones for emergencies, but cannot afford to subscribe to even the most basic wireless phone service. Others do not want to depend on a device that will require that they remember to recharge batteries every few days. Still others, particularly seniors, are confused by the numerous small function keys and increasingly complex rate plans of current cellular and PCS services.

Mobile911 is an analog cellular phone that enables two-way voice communication but is only capable of dialing 9-1-1. It cannot receive incoming calls, but it is similar to the millions of uninitialized and/or decommissioned cell phones in circulation that can be put to use for Basic 911 Service. However, SecureAlert improved upon this basic “safety

number of ways. Mobile911 is easy to use, with a single large button to dial 911. Among its other safety features, Mobile911 has a built-in 95-decibel siren, and it remains operable for a long time using inexpensive batteries that do not need to be recharged. In sum, SecureAlert designed Mobile911 to be a simpler, more affordable and maintenance-free solution for people who want a wireless phone for emergencies only, or who have difficulty using a traditional cell phone. Mobile911 users rely upon the ability to gain instant access to 911 emergency services nationwide with the touch of a button.

II. Eliminating the analog service requirement and the analog compatibility standard would severely restrict access to telecommunications and emergency services for large segments of the population.

More than 6 million Americans use hearing aids or cochlear implants, according to the National Institute on Deafness and Other Communication Disorders of the National Institutes of Health. Given that digital wireless systems are not currently compatible with

hearing aid technologies, eliminating the analog service requirement would violate Section 255 of the Communications Act, which requires that “[a] provider of telecommunications service shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.”¹

Mobile911 was designed for the analog network because digital wireless networks do not have as extensive a coverage footprint as analog cellular service. A nationwide compatibility standard maximizes the likelihood that users of analog cellular phones can access emergency services even when they’re roaming. In fact, according to OnStar, analog system coverage is three times greater than non-analog system coverage: “The benefits of new digital cellular technology are great, but the downside is even greater. Currently, analog cellular technology provides the broadest geographic coverage of the United States. Over 90 percent of the country is covered by the analog system. Digital coverage is less than 30 percent. This means that when traveling, you’re more likely to be away from cellular service using digital technology.”² This disparity is a predictable outcome of market forces. Despite the aggressive build-out of digital PCS and SMR networks by wireless providers since the late 1980s, digital coverage is still only one-third that of analog. This is a natural result of market forces. Wireless providers have a financial incentive to add coverage in areas with dense population where their system capacity utilization will be highest. Therefore if the analog service requirement and the analog compatibility standard were eliminated, market forces would effectively restrict access to wireless services—including emergency services—for people who live or roam in rural areas.

¹ 47 U.S.C. Section 255(c).

² See OnStar’s website, www.onstar.com/visitors/html/ao_faq.htm, October 26, 2001

The Commission's requirement to provide the public with free and unrestricted access to wireless 911 Service has led many individuals and businesses to donate old wireless telephones to women's shelters and other organizations.³ These phones are typically refurbished and programmed to dial 911 and/or other emergency numbers, and service is provided free of charge by many wireless carriers as a public service. Many of these phones are analog. Industry analysts estimate that there are currently as many as 24 million uninitialized and/or decommissioned wireless phones in people's homes and businesses.⁴ Many of these people, including those that have ready access to wireless service, keep a spare phone in their glove compartment or purse, or give an old, decommissioned cell phone to their child or other loved one for use *in case of emergency only*. Many of these phones are analog.

Most Mobile911 users are elderly people who travel by car and have concerns about medical emergencies. In fact, the average age of Mobile911 users is 67 years old. Over 90% own Mobile911 primarily for use while traveling in their cars and for medical emergencies.⁵ Moreover, people whose needs are not being served by alternative wireless products and services are taking advantage of the low-cost alternative offered by personal safety products such as Mobile911. Many Mobile911 customers are persons who cannot afford wireless service, *i.e.*, the very people for whom the Commission seeks to ensure access to telecommunications services. SecureAlert strongly believes the FCC should not disturb its previous determination "that the public interest would clearly be

³ Andrea Watson, "Used cell phones to protect women," Lubbock Avalanche-Journal, April 11, 2000.

⁴ Industry analysts estimate that there are currently as many as 24 million inactive wireless phones in people's homes and businesses. *See*, March 14, 2000 Press Release, "Wireless Foundation & National Coalition Against Domestic Violence Launch National 'Donate a Phone' Campaign" *citing* Hershel Shostack and Associates & CTIA, February, 2000. www.wirelessfoundation.org/08media/index.cfm

⁵ Data compiled from Mobile911 warranty registration cards

better served by requiring covered carriers to forward all 911 calls.”⁶ This conclusion, along with the Commission’s designation of 911 as the universal emergency telephone number pursuant to The Wireless Communications and Public Safety Act of 1999⁷, has helped to make immediate access to emergency services available to all Americans. If the analog service requirement and the analog compatibility standard were deleted, the availability of low cost personal safety devices like the Mobile911 handset will be threatened and a segment of the population will not have the ability to own a wireless 911 safety device.

The health and safety of these large segments of people depend on the Commission’s inclusive access requirements. Any modification of the Commission’s rules should therefore broaden, and not restrict, consumer access to wireless telecommunications service. Bearing this in mind, the Commission must be careful not to adopt rules that create a “digital divide” between those who have access to wireless telecommunications service—including access to 911 service—and those who do not.

III. Any Modification of the Commission’s Rules Should Broaden, and Not Restrict, Consumer Access to Telecommunications and Emergency Services.

Section 20.18 (b) of the Commission’s Rules currently permits anyone with a wireless phone to have access to Basic 911 Service.⁸ This requirement is consistent with many of the Commission’s laudable efforts to promote access to telecommunications services to all Americans. With regard to wireline access to emergency service, the Commission has designated access to 911 service in rural, insular and high cost areas as

⁶ Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Order* DA 96-2530 (1997) 10 CR 1088 at 1099 (¶ 33) (*emphasis added*).

⁷ Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, enacted Oct. 26, 1999, at Section 4 (“911 Act”).

eligible for universal service support pursuant to Rule Section 54.101. Ensuring that affordable wireless access to the Basic 911 Service “safety net” is consistent with the mandate in Section 1 of the Communications Act to promote public safety through the use of radio communication.⁹

Moreover, the Commission’s current “open access” requirement for wireless Basic 911 Service is consistent with state regulation of pay telephones. Users of pay phones have long been able to place 911 calls without any charge in many states as a result of state and local regulation.¹⁰ The Commission has previously recognized that the pay telephone is the closest wireline analogy to a wireless handset, in terms of offering a capability of accessing 911 service while the user is away from his or her home or office.¹¹

IV. Conclusion.

The original rationale that led the Commission to require analog service and analog compatibility standard still remains. Universal access to wireless service—including emergency service—is in the public interest. The Commission should not threaten the basic, yet vital, “safety net” that analog service provides to people who depend upon it, including those with hearing disabilities, those who live or roam in rural areas, those who participate in charitable donation programs, and those who cannot afford

⁸ 47 C.F.R. § 20.18(b).

⁹ 47 U.S.C. § 151.

¹⁰ See, e.g., Fla. Stat. Ann. Sec. 364.3375(2)(a) (West 1996) (requiring that each pay telephone station shall receive and permit coin-free access to the universal emergency telephone number “911” where operable); Idaho Code Sec. 31-4811 (1995) (pay phones to be converted to allow emergency calls without charge); Iowa Code Ann. Sec. 34A.4 (West 1996) (requiring conversion of pay telephones to allow 911 calls without depositing coins or paying other charges); Mass. Gen. Laws Ann. ch. 166, Sec. 14A (West 1996); Minn Stat. Ann. Sec. 403.04(2) (West 1996); S.C. Code Ann. Sec. 23-47-20(c)(12) (Law. Co-op. 1993); S.D. Codified Laws Ann. Sec. 34-45-13 (1995); Wis. Stat. Ann. Sec. 146.70 (West 1996).

or otherwise choose not to purchase a digital wireless service plan. SecureAlert submits that if the analog service requirement and analog compatibility standard requirement were eliminated, market forces would act to restrict access to wireless service among these segments of the population whose needs are underserved by alternative wireless services.

Respectfully submitted,
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¹¹ Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Report and Order and Further Notice of Proposed Rule Making*, CC Docket 94-102, FCC 96-264, 3 CR 967, 11 FCC Rcd 18676 (1996) (¶ 37).